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PETITION REVIEW BY SUPREME COURT

Defendants in Naval Stores
Case Say Sherman Law
Is "Bad."

DIFFICULT TO INTERPRET

Statute Creates Offenses Without Telling Explicitly What They Are.

Washington, D. C., January 4.—Officials of the American Naval Stores Company today filed a petition in the Supreme Court of the United States for review of their conviction in the Federal Circuit Court of Georgia of violating the Sherman anti-trust law.

The officials convicted were Edmund S. Nash, president of the American Naval Stores Company; Spencer P. Shottler, chairman of the board of directors; J. S. Cooper Myers, vice-president; George M. DeLoach, treasurer, and Carl Moller, manager of the company's branch at Jacksonville, Fla. Shottler and Myers, according to the petition, are the first men sentenced to imprisonment for violation of the Sherman anti-trust law whose cases ever came before the Supreme Court. The petition was filed by former Senator John C. Spooner and Samuel B. Adams.

The officials were convicted in the United States Circuit Court for the Southern District of Georgia, on charges of conspiracy both to restrain and to monopolize trade. They had been indicted in connection with the American Naval Stores Company, the National Transportation Company and C. L. DeLoach, the vice-president of the company, and the government abandoned the case against DeLoach. The conviction was affirmed by the Circuit Court of Appeals for the Fifth Circuit. There the case will end unless the Supreme Court acts favorably upon the petition presented today and directs the Court of Appeals to send up the case for review.

Mr. Spooner and assistant counsel urge in their petition that questions are raised in the case which are of great importance to the business world and to the legal profession. Hope is expressed that "the distressing uncertainty" of the penal sections of the Sherman anti-trust law, Georgia, removed in part by the forthcoming decisions in the Standard Oil and tobacco cases, but fear is voiced that these decisions may be too late to remedy the uncertainty claimed to have been indicated upon the officials of the Naval Stores Company.

A review is requested because, in the first place, the Sherman law as a penal measure is characterized as a "bad law" even though it is not an "unconstitutional one" and, in the second place, because the indictment was based in that it did not charge an overt act committed in furtherance of the alleged conspiracy.

The "badness" of the law is alleged largely upon the claim that it does not contain an adequate description of any criminal offense. The principle is advanced in this connection that a law which creates crime ought to be so explicit that all men subject to its penalties know what acts it is their duty to avoid.

Because no overt act is charged to further the alleged conspiracy, it is alleged that no offense against the United States was contained in the indictments.

GALLAGHER GETS 12 YEARS

Gaynor's Assassin Sentenced for Trial.

New York, January 4.—James J. Gallagher, who shot Mayor Gaynor last August, was sentenced today to twelve years' imprisonment. He was convicted in New York of an indictment charging him not with shooting Mayor Gaynor, but with assaulting him, and with attempting to kill William H. Edwards, Commissioner of the Police, who was shot by Gallagher on the morning when Mayor Gaynor planned to sail for Europe. He told how he had shot the Mayor and how he had been wounded by a second shot from Gallagher's revolver. Gallagher offered no objection to the indictment.

Each side took fifteen minutes to sum up. Gallagher's counsel declared that no evidence was shown that his client had intentionally wounded the commissioner or that he had shot him. He said the shot was fired inadvertently during the struggle.

The jury fled back into the room for further instructions after a few minutes' deliberation. The court was asked if the jury would be asked in finding a verdict of guilty if they did not believe that the shot which killed Mayor Gaynor was fired intentionally. Judge Swagoe announced that ten days would be allowed the prisoner by commitment in which to file motions for an appeal.

HOPELESSLY SICK MAN
SHOOT HIMSELF IN HEART

[Special to The Times-Dispatch.]
Bristol, Va., January 4.—A special from Mountain City, Tenn., states that Mack Shively, a young man and member of a prominent family in that county, hopelessly ill of tuberculosis, fired a pistol bullet into his heart and died instantly. He was a brother, who was attending him, to retire to an adjoining room for rest, suggesting that he would be called if he needed a moment later the fatal shot was fired.

DREAD DISEASES LOSING STRENGTH

Cases of Consumption and Typhoid in Virginia Greatly Reduced.

BOARD OF HEALTH MEETS

Year's Work at Catawba—Other Bureaus Report on Results.

Pre-eminent in importance among the mass of statistics and results passed upon yesterday by the State Board of Health, in its semi-annual session in this city, was the fact that two of the most dreaded diseases have at last begun to lose their hold upon the people of Virginia. The reduction in the number of new cases of tuberculosis and typhoid is notable and was exceedingly cheering to the members of the board, who commented on the fact at length.

According to the annual report of State Health Commissioner E. H. Williams for 1910, read by him to the board, the number of cases of typhoid fever in the state has been reduced from 14,325 in 1909 to 11,812, a decline of 2,513.

As to consumption, the estimated number of new cases in 1909 was 5,816, while in 1910 this was reduced to 5,759, the reduction being 57.

Need Statistics Law.

These figures are regarded as especially gratifying, in view of the fact that diseases are being reported more faithfully and carefully than heretofore, as a result of better organization. Dr. Williams commented on the fact that the absence of a law requiring vital statistics prevents absolutely accurate knowledge of the subject of diseases in Virginia, yet he said there was no question whatever that there had been a marked reduction in the number of cases of the diseases mentioned.

Each of the bureaus into which the State Health Department is divided made a separate report, and a vast amount of ground was covered during the session, which lasted throughout the day.

Cary Sheppard, engineer in charge of the Catawba Sanatorium, reported that the new buildings are completed and that the cost has been kept within the appropriation. The State Board passed a resolution of thanks to Mr. Sheppard.

Results at Catawba.

The statistical report from Catawba shows that of the forty-six cases discharged as cured from the sanatorium in 1910, there have been no relapses. However, the report deprecates the tendency of patients to leave before treatment is completed. They improve rapidly and so well that they insist upon returning to work, against the advice of the physicians. Twenty-two persons were discharged as cured during the year. The report regrets the difficulty in getting hold of patients in early stages of the disease. Of the 161 cases treated during the year, 131 were advanced and only thirty incipient. Admission has been refused some whose condition was very bad.

The general percentage is given as follows: Apparently cured, 9 per cent.; disease arrested, 19 per cent.; improved, 50 per cent.; unimproved, 19 per cent.; died, 2 per cent.

Dr. W. E. Jennings, assistant resident physician, and A. L. Martin, business manager at Catawba, attended the meeting. It was shown that the average cost of maintenance is \$2.50 per patient per week, about \$1.50 less than the average of thirty sanatoria throughout the country.

No Recommendations.

Dr. Williams makes no recommendations.



Outdoors

A tramp out in the open on a cool, clear day, either with dog and gun or purely for the love of the outdoors, makes you appreciate that winter isn't so bad after all.

A glass of Pabst Blue Ribbon Beer is the best beverage to satisfy the thirst that follows outdoor exercise.

Pabst Blue Ribbon
The Beer of Quality

is a balanced beverage, containing just the proper amount of pure food value and stimulant needed to refresh a system tired by healthy exercise.

The rich, smooth taste and delightful flavor of Pabst Blue Ribbon come from a combination of finest raw materials and unequalled brewing skill.

Made and Bottled Only by Pabst in Milwaukee
Order Pabst Blue Ribbon from Pabst Brewing Company

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High-Grade Pianos At Very Low Prices

These Pianos are being sold at a big reduction because they were bought for our great Holiday Sale but arrived too late.

Better come and save money on a new piano.

Write us if you cannot come.

Walter D. Moses & Co.,
103 E. Broad St., Richmond, Va.,
Oldest Music House in Virginia and North Carolina.

ious this year, in view of the fact that there will be no meeting of the Legislature.

From the bacteriological department, by Dr. Meade Ferguson, it was learned that 4,780 examinations were made during the year, an increase of 50 per cent. during 1909. This indicated the value placed on the work by physicians.

A total of 18,315,000 units of antitoxin was distributed in 1910, at a reduced cost of \$132 per 1,000 units. The total saving to afflicted families is \$24,000. In this connection, 1910 was a bad year everywhere for diphtheria.

The bureau of inspection, through Dr. R. K. Flanagan, reported eighty-nine hotels examined in the last two months. A few of these are not complying with the law, and have been given until January 15 to straighten matters out, after which those still failing to comply will be prosecuted.

Assistant Health Commissioner A. J. W. Freeman presented his report on rural sanitation and hookworm. He described the organization he has built up for wiping hookworm from Virginia, and gave the results already accomplished.

Treated for Rabies.

In the Pasteur department forty-eight cases have been treated during the year. No case of rabies has developed.

State Sanitary Engineer Richard W. Freeman presented his report. He will shortly make a tour of inspection of all State schools.

Dr. D. S. Freeman, reporting on educational publicity, said that newspapers are the best friends of the people.

Health conditions were found to be improving, and local boards are reorganizing. Epidemics during the year were reviewed by the board.

The City Board of Health of Fredericksburg was re-elected.

The board received and approved a report from a committee recommended at a previous meeting, which recommended that local health officers be paid salaries instead of fees, this system being regarded as the more satisfactory.

The following members of the State Board attended the meeting: Dr. W. M. Smith, Alexandria, president; Dr. W. M. Hobson, Newport News; Dr. S. H. Graves, Norfolk; Dr. J. Fisher, Middleburg; Dr. O. C. Wright, Fairfax; Dr. J. H. Dunkley, Richmond; and Dr. George Ben Johnston, Richmond.

REBELS SWEEPING IN ON THE CAPITAL

Honduran Government Cannot Hope to Withstand Assault.

New Orleans, La., January 4.—That General Luis Dizon, commanding 2,000 Honduran and Tegucigalpa revolutionaries, is closing in on Tegucigalpa, the capital of Honduras, and will attempt to take the city to-day or to-morrow, is the news brought by the Scandinavian steamer Karen, which arrived here this afternoon from Ceiba, on the Belize route.

General Manuel Bonilla, former President of Honduras, and leader of the revolution against the Davila administration, is aboard the gunboat Hornet, a former United States gunboat, and is attacking the coast towns and subduing them, while General Dizon attacks Tegucigalpa and General Lee Christiansen sweeps the capital from another direction.

The Hornet, it is said, picked up the Americans, who were massed on the Guatemalan frontier, on her return from Cape Gracias, and is probably in action against coast towns at this time.

Officers of the Karen say President Davila has no real gunners, and only native soldiers, and cannot hope to hold out against the revolutionaries.

JOHNSON NOMINATED

Choice of Democrats to Succeed Senator Hale.

Augusta, Me., January 4.—Charles F. Johnson, of Waterville, Democratic candidate for Governor of Maine in 1892 and again in 1894, a member of the State Board of Legal Examiners and a prominent lawyer, was nominated on the first ballot tonight at the Democratic caucus, to succeed United States Senator Eugene Hale at the expiration of the latter's term on March 4 next. As the Maine Legislature is safely Democratic, his nomination to-night is regarded as equivalent to an election. He will be the first Democrat to represent Maine in the Senate since 1847.

Besides Mr. Johnson, the candidates for the United States senatorship nomination were Obadiah Gardner, of Rockland, who two years ago lacked only 7,000 votes of being elected Governor of Maine, and former Sheriff William M. Pennell, of Portland, who at the September election was defeated for Congress by Asher C. Hinds, the national parliamentary. In the First District. The result of the ballot was as follows:

Whole number of votes cast, 105; necessary for choice, 53. Johnson, 67; Gardner, 21, and Pennell, 17.

Colonel Boykin Qualifies.

Colonel Henry M. Boykin appeared before City Clerk Ben T. August yesterday and qualified as a member of the Board of Police Commissioners from Lee Ward.

Marriage Licenses.

Marriage licenses were issued yesterday to Frank L. Farmer and Annie Edna Mitchell, and to Frederick P. Kuoster and Ethel C. Richardson.

OFFICERS NAMED FOR INSPECTION

Virginians Will Accompany United States Representatives on Tour.

HARRISONBURG LEFT OUT

Petition as to Toll Gates Is Amended—Governor Goes to Bristol.

Virginia officers were yesterday designated by Adjutant-General W. W. Sale to accompany the officers of the War Department who will make the annual United States inspections of the State militia. The officers named will report to and accompany the War Department inspectors on the various tours of duty enumerated, as follows:

Captain Percy Montague, Jr., of Company C, Richmond Light Infantry Blues, to inspect First Battalion, First Regiment, March 7.

Major T. P. Fox, First Infantry, to inspect Richmond Blues' Battalion March 9.

Captain W. E. Tribbett, First Infantry, at Staunton March 13 and Charlottesville March 17.

First Lieutenant S. D. Waller, Second Infantry, at Harrisonburg March 14; Front Royal March 15 and Luray March 16.

Lieutenant-Colonel R. E. Craig, First Infantry, at Farmville March 20, Roanoke March 21 and Lynchburg March 22.

Captain H. H. Hunt, First Infantry, at Danville March 23.

Captain Charles M. Wallace, First Infantry, at Petersburg March 27 and Chase City April 1.

First Lieutenant J. H. Smith, Fourth Infantry, at Emporia March 24 and Suffolk April 5.

Second Lieutenant Louis N. Duffey, First Infantry, at Fredericksburg April 6 and Alexandria April 7.

First Lieutenant T. E. Barnstein, Second Infantry, at Warrenton April 12 and Culpeper April 13.

Major A. G. Epps, Fourth Infantry, of Portsmouth, at Second Battalion, Fourth Infantry, Norfolk, March 25.

Captain W. H. Church, Fourth Infantry, of Norfolk, at Portsmouth April 4.

Major C. L. Wright, First Brigade, at Newport News March 28 and at Paymaster-General's office, Norfolk, April 3.

Captain I. Branch Johnson, Field Artillery, for Richmond Howitzers March 8.

Arthur Jennings C. Wise, Field Artillery, for Norfolk Light Artillery Blues March 9 and Grimes' Battery, Portsmouth, March 10.

Captain Charles P. Heinemann, Coast Artillery, for First and Second Companies of Coast Artillery, Norfolk, March 23.

Captain Charles A. McLean, Coast Artillery Corps, for Third and Fourth Companies, Coast Artillery, Portsmouth, March 24.

Captain Giles B. Cook, Medical Corps, at Portsmouth, March 20, Norfolk March 21, Richmond March 22, Chase City March 23 and Roanoke March 25.

These officers will assist at the inspections as herein ordered in whatever manner the inspecting officers may direct, and upon the completion of their duties report at once to this office upon the following matters:

1. What supplies, if any, are needed by each company or other unit of the Virginia volunteers, complete its equipment and stores, as contemplated by the militia law.

2. If quartermaster-sergeants have complied with paragraphs 2 and 3 of General Order No. 27, A. G. O. November 9, 1908, directing the care of company property, in order to receive pay.

3. If the criticisms of defects and suggestions as made in the report of the assistant inspector-general, Virginia volunteers, for the year 1910 have been remedied or complied with.

4. What progress has been made in small arms firing.

5. Condition of armories.

6. A report of any other matters which may be considered pertinent and for the good of the service.

AMENDS PETITION

Harrisonburg Not Now Included in Toll Gate Proposition.

Harrisonburg, at least, will not be affected by reason of the effort to place toll gates on the Valley Turnpike. The Valley Turnpike Company, yesterday filed with the State Corporation Commission an amendment to his original petition, withdrawing the application so far as the capital of Rockingham county is concerned.

Hearing on the petition is to be had by the commission on January 11. There will be strenuous opposition, it is understood, on the part of residents of the four towns still affected, as well as by people who travel the road. It has been explained that it is not the intention of the company to increase rates of travel, or to charge more than the law specifies for travel over each five-mile section of road, but to make the people living on one side of a town pay the same amount for use of the pike as those on the other side. At present two gates can be erected within five miles of each other, and as a result there are gates on one side of each of the towns through which the road passes, and the people on the other side travel to and from the town without the payment of tolls.

Governor in Southwest.

Governor Mann left last night for Bristol where to-day he will address the Virginia-Tennessee Agricultural and Industrial Association.

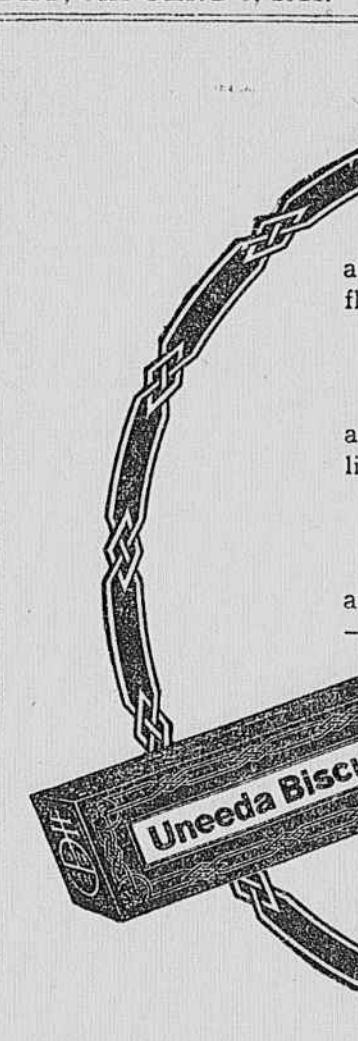
REPLIES TO LODGE

Governor-Elect Says He Belongs to Time That Is Past.

Boston, Mass., January 4.—In answer to Senator Lodge's speech in the Senate yesterday, Governor-Elect Eugene H. Fox issued a statement, saying in part:

"Senator Lodge's speech of last night was an eloquent personal reminiscence. It told of the past, but not a word of the present and the future. If there was any doubt as to the fact that the Senator was defeated, this speech, completely dispelled that illusion, for his own utterances have defeated him. He stands pat on the tariff, on reciprocity with Canada, on the income tax, on the direct primary, on the election of United States Senators by popular vote, on the recall, on the initiative and on the referendum."

The Governor-elect says that upon these issues the election was fought and won in Massachusetts last fall, and declares that Senator Lodge evaded all these issues. It is now seen, he adds, that Mr. Lodge is opposed to every one of them. After declaring



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are soda crackers made from the finest flour and the best materials obtainable— That Makes them an ideal **FOOD**

Uneeda Biscuit

are baked in surroundings where cleanliness and precision are supreme— That Makes them **PURE**

Uneeda Biscuit

are touched only once by human hands—when the pretty girls pack them— That Makes them **CLEAN**

Uneeda Biscuit

are sealed in a moisture proof package— That Keeps them **FRESH**

NATIONAL BISCUIT COMPANY

5¢ A Package (Never sold in bulk)

WOULD ADVANCE RATES BY CLASS

Railways Oppose Discussion of Increases on Particular Articles.

Washington, D. C., January 4.—Freight rate construction, as a whole, and not with relation to any particular article of transportation, whether it be a commodity or be embodied in a class, is the principal issue involved in the investigation now being conducted by the Interstate Commerce Commission.

This is the contention of counsel for the railway lines in official classification territory filed with the commission to-day.

The brief points out that it is claimed the carriers have not discharged the burden of proof required by the law, "because they have failed to establish by affirmative proof the reasonableness of the proposed increase on each specific article of the many thousand articles, embraced in the official classification, the rate on which will be advanced. If the advance in class becomes effective."

This, it is submitted, "is a totally erroneous view of the matter. If the companies have demonstrated, as we believe they have, that any advance in the class rates is justifiable and that the advances proposed to be made therein are reasonable, then it necessarily results that the reasonableness of the advance, as applicable to all articles embraced in the classes, has been thereby established."

The contention also is made that if the freight charge for the transportation of any particular article can be demonstrated to be too high, that does not affect the whole class, but merely means that the classification of that article ought to be changed."

It is urged that, in the view of the shipping public, the rates, prior to recent advances in the wage scales, were not too high. Some believed they were too low. Therefore, in the view of counsel for the carriers, the considerable increase in operating expenses of the roads furnishes an adequate justification for the proposed advance.

THRILLS FOR TEXANS

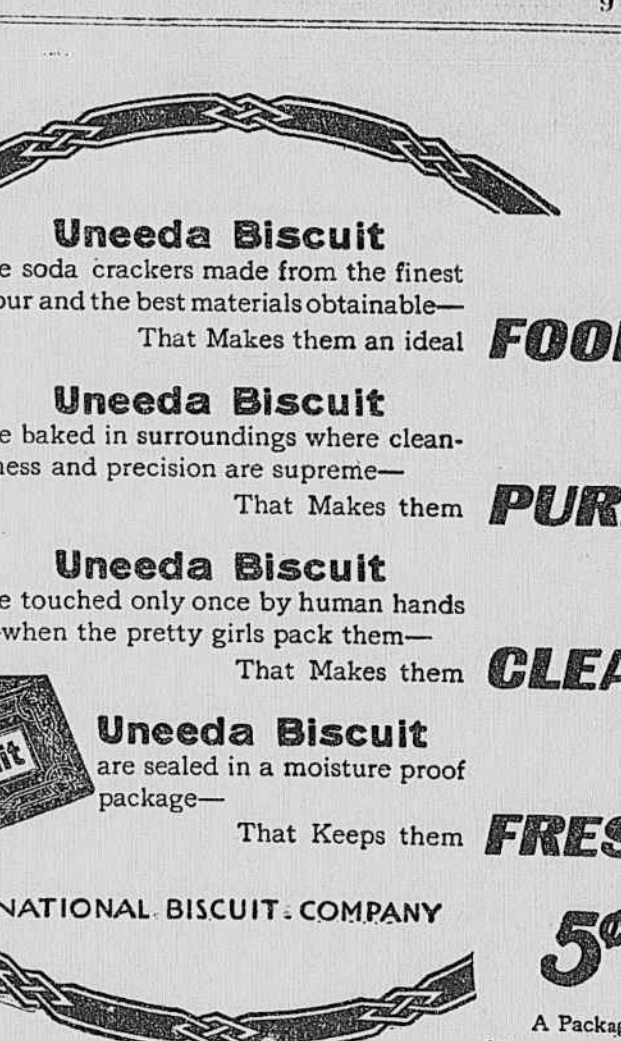
Rene Simon Shows Them What a Monoplane Can Do.

Dallas, Tex., January 4.—Rene Simon gave Texans their first glimpse of the successful navigation of a heavier-than-air machine to-day, when he made four thrilling flights in his Blériot monoplane. Flights were also made by Glenn in a monoplane and by Hamilton and Frisbie in biplanes, but Simon was the star of the afternoon, accomplishing marvelous excursions of the spiral glides, the right turn and other evolutions.

In an attempted cross-country flight John Frisbie was forced to make a hurried descent when a mile from the field. His machine crashed into a fence, badly injuring one of the planes. They were not injured. The meet will continue five days.

Pioneer Is Killed

Cheyenne, Wyo., January 4.—Mark Al. Good, eighty-four years old, a wealthy pioneer rancher and stock breeder, was shot and killed to-day by Miguel Garrido, a Mexican ranch hand, in a quarrel over wages. Good came West in 1867 and laid the foundation of his fortune by conducting a freighting line between Omaha and Denver. In the pioneer days, Good gained a wide reputation as an Indian fighter.



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TOWN IN HANDS OF INSURRECTOS

Its Jefe Politico Is Now Guiding Rebels on Victorious March.

Mexico City, January 4.—Cuahuahua, a town of 3,000 inhabitants, south of San Andres, in Chihuahua, is reported to have fallen into the hands of the rebels. The town is of little importance strategically.

Jose Munoz, its jefe politico, who is credited with having saved General Navarro from disaster in Mal Paso Canon by slipping past the insurgents and giving warning of an ambush prepared for him, is said to be serving as guide for Navarro on his march to Culdad, Guerrero. Navarro is believed to be now on the way from Pedernales to assault Guerrero, where the rebels have been gathering for some time. Newspaper specials from Chihuahua say that Nacozari, a mining camp in Sonora, is threatened by a body of revolutionists, believed to be a portion of those from Mal Paso.

From the same source it is learned that Lieutenant-Colonel Julio Cervantes has recently had an encounter near the Mormon colony of Janos, in Chihuahua. After a fight lasting two hours, the rebels fled northward, and are believed to have crossed the frontier.

TWO RAILROADS FINED FOR UNLAWFUL REBATING

Bethlehem Steel Company Also Convicted by Judge Holland at Philadelphia.

Philadelphia, January 4.—Judge Holland, in the United States District Court, to-day inflicted fines of \$10,000 each on the Philadelphia and Reading Railway, the Lehigh Valley Railroad Company and the Bethlehem Steel Company, charged with unlawful rebating.

The government was the prosecutor, the charge being that the railroads had committed demurrage charges on freight cars used by the steel company.

The defendants announce that they will appeal the case to the Supreme Court.

District Attorney J. Whitaker Thompson, in moving sentence, stated to the court that he thought justice would be done if each defendant was fined the maximum penalty, \$20,000, on the first count in each of the two indictments found against them.

During the trial of the case evidence was presented to show that the demurrage charges of the two railroads against the steel company aggregated \$131,695, and that of this amount the steel company paid only \$7,931.

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Michelin was the first to manufacture pneumatic automobile tires and now produces more than half of the tires made in the world.

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FOSTER MOTOR CAR CO., Inc., RICHMOND, VA.